

Nicholas L. Coch
Kramer, Levin, Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 715-9118
Facsimile: (212) 715-8000

Talivaldis Cepuritis
Joseph M. Kuo
Anita M. Cepuritis
Brian R. Michalek
Olson & Cepuritis, Ltd.
20 North Wacker Drive, 36th Floor
Chicago, Illinois 60606
Telephone: (312) 580-1180
Facsimile: (312) 580-1189

Attorneys for Defendant-Counterclaimant BestMed, LLC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MEDISIM, LTD

Plaintiff - Counterdefendant

v.

BESTMED, LLC

Defendant - Counterclaimant

Civil Action No.: 10-cv-2463 (SAS) (RLE)

**BESTMED, LLC'S MOTION FOR
JUDGMENT AS A MATTER OF LAW,
OR ALTERNATIVELY FOR A NEW
TRIAL**

NOTICE IS HEREBY GIVEN that, BestMed, LLC will hereby and does move before the Honorable Judge Scheindlin, Judge of the United States District Court for the Southern District of New York, at a time and place to be scheduled by this Court, for an order granting BestMed, LLC's Motion for Judgment as a Matter of Law. In particular, that BestMed, LLC is entitled to judgment as a matter of law that:

- 1) U.S. Patent No. 7,597,668 is Invalid as Anticipated;
- 2) U.S. Patent No. 7,597,668 is Invalid as Obvious;

- 3) U.S. Patent No. 7,597,668 is Invalid for Lack of Enablement;
- 4) U.S. Patent No. 7,597,668 is Invalid for Lack of Written Description;
- 5) BestMed, LLC Does Not Infringe U.S. Patent No. 7,597,668;
- 6) BestMed, LLC Does Not Induce Infringement of U.S. Patent No. 7,597,668;
- 7) BestMed, LLC Does Not Contribute to the Infringement of U.S. Patent No. 7,597,668;
- 8) BestMed LLC Does Not Willfully Infringe U.S. Patent No. 7,597,668;
- 9) Medisim, Ltd. is Not Entitled to the Jury Awarded Damages for Patent Infringement;
- 10) BestMed, LLC is Not Liable for Unjust Enrichment under New York Law;
- 11) Medisim, Ltd. Is Not Entitled to Damages for Unjust Enrichment Awarded by the Jury; and
- 12) Any further relief as this Court may deem just, proper, and equitable.

Alternatively, BestMed is entitled to a new trial on the aforementioned issues.

This Motion is based on BestMed, LLC's Memorandum of Law in Support of its Motion for Judgment as a Matter of Law, or Alternatively for a New Trial and the Declaration of Brian R. Michalek with all exhibits thereto submitted concurrently.

Respectfully submitted,

Dated: March 4, 2013

By: /s/ Joseph M. Kuo
Talivaldis Cepuritis
Joseph M. Kuo
Anita M. Cepuritis
Brian R. Michalek
Olson & Cepuritis, Ltd.
20 North Wacker Drive, 36th Floor
Chicago, Illinois 60606
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 4, 2013, a copy of the foregoing **BESTMED, LLC'S MOTION FOR JUDGMENT AS A MATTER OF LAW, OR ALTERNATIVELY FOR A NEW TRIAL** was electronically filed with the Court via ECF which thereby served an e-mail notice upon the attorneys listed below:

Scott S. Christie
Keith J. McWha
MCCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102-4056
Tel. No. (973) 622-4444
Fax No. (973) 624-7070
E-mail: schristie@mccarter.com
kmcwha@mccarter.com

/s/ Joseph M. Kuo